

REMARKS/ARGUMENTS

Favorable reconsideration of this application, in light of the present amendment and following discussion, is respectfully requested.

Claims 27-30 are pending; Claims 27-30 are amended. It is respectfully submitted that no new matter is added by this amendment.

SUMMARY OF THE OFFICE ACTION

In the outstanding Office Action, Claim 27 was rejected under 35 U.S.C. § 101; and Claims 27-30 were rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over Claims 1, 3, 5, and 7 of U.S. Pat. No. 6,389,222 in view of Saeki et al. (U.S. Pat. No. 6,253,026).

REJECTION UNDER 35 U.S.C. § 101

With regard to the rejection of Claim 27 under 35 U.S.C. § 101, that rejection is respectfully traversed.

Claim 27 has been amended to recite a first recording area configured to record the still picture information using the recording apparatus ... and a second recording area configured to record the still picture VOB group information using the recording apparatus. Accordingly, it is respectfully requested that this rejection be withdrawn.

MPEP § 2106 discusses statutory subject matter in relation to data structures of a computer readable medium. Particularly, MPEP § 2106 provides,

a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory.

Thus, based on the clear language of this section, Claim 27 is statutory as it recites a functionality which is realized based on the interrelationship of the structure to the medium and recited hardware components.

Further, should the Examiner disagree with the above passage, MPEP § 2106 also states that,

Whenever practicable, Office personnel should indicate how rejections may be overcome and how problems may be resolved. A failure to follow this approach can lead to unnecessary delays in the prosecution of the application.

Applicants respectfully submit, as noted above, that the rejection under 35 U.S.C. § 101 should be withdrawn. However, if the rejection under 35 U.S.C. § 101 is to be maintained, Applicants respectfully request that the Examiner provide an explanation of the rejection in view of the guidelines in MPEP § 2106.

DOUBLE PATENTING REJECTION

Regarding the double patenting rejection of Claims 27-30, that rejection is also traversed. Applicants have filed herewith a Terminal Disclaimer against U.S. Pat. No. 6,389,222. It is therefore respectfully requested that this rejection be withdrawn.

The filing of a terminal disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection. The "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection." *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 U.S.P.Q.2d 1392 (Fed. Cir. 1991). Accordingly, Applicants filing of the attached disclaimer is provided for facilitating a timely resolution to prosecution only, and should not be interpreted as an admission as to the merits of the obviated rejection.

Consequently, in view of the foregoing discussion and present amendments, it is respectfully submitted that this application is in condition for allowance. An early and favorable action is therefore respectfully requested.

Respectfully submitted,

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